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[Request for Relief for Former DCSC Accounting and Finance Officer]

Number: B-227538

Date: 1987-07-08

B-227538, Jul 8, 1987, Office of General Counsel

APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Liability - Statutes of limitation - Effective dates - Illegal/improper payments DIGEST: 1. It is not necessary for our Office to grant relief in a case where the 3-year statute of limitation period has expired. Under these circumstances, the accountable officer involved cannot be held liable for any erroneous payment. 31 U.S.C. Sec. 3526(c). APPROPRIATIONS/FINANCIAL MANAGEMENT - Accountable Officers - Account deficiency - Administrative reports - GAO procedures - Deadlines 2. Agencies are required to report financial irregularities to GAO within 2 years after the date the accounts are made available to GAO for audit (that is, the date the agency has substantially complete accounts). 7 GAO Policy and Procedures Manual for the Guidance of Federal Agencies, Sec. 28.14. This time-frame provides the agencies time to try to resolve the irregularities on their own, as well as our Office an adequate opportunity to determine whether relief should be granted or denied prior to the expiration of the 3-year statute of limitation period.

Mr. Peter H. Tovar:

This responds to your request of June 18, 1987, that we relieve Ms. Cleo F. Mason, former Accounting and Finance Officer, DSSN 6551, Defense Construction Supply Center, Columbus, Ohio, under 31 U.S.C. Sec. 3527(c) for an improper payment of a $507.91 check issued to Mr. Donald B. Shaw. As explained below, since the 3-year statute of limitation period has expired in this case, the account in question must be considered to be settled and the accountable officer involved cannot be held liable for any erroneous payment.

The loss resulted when the payee negotiated both the original and a substitute check. Both checks were in the same amount. The substitute check was issued on the basis of the payee's allegation that the original check had not been received and a request for stop payment had been made. Both checks were issued by the Defense Logistics Agency (DLA) under authority delegated by the Department of the Treasury. 31 C.F.R. Sec. 245.8(1985). See also, Department of Defense Directive No. 5105.22, August 15, 1986. DLA was notified by Treasury of the loss by a debit voucher dated October 24, 1983.

Under 31 U.S.C. Sec. 3526(c), our Office is authorized to settle accounts of accountable officers, and hence to grant or deny relief, "within 3 years after the date the Comptroller General receives the account" except where the loss is due to fraud or criminality by the accountable officer (or during war time). As a result of changes in audit methods, accounts are now retained by the various agencies where they are subject to audit and settlement by our Office. To

reflect this procedural change, our Office now considers "the date of receipt by the agency of substantially complete accounts, or where accounts are retained at the site, the end of the period covered by the account, as the point from which the 3-year period" provided for in 31 U.S.C. Sec. 3526(c) begins to run. B-205587, June 1, 1982.

Our Office has consistently held that once the 3-year statutory period has expired, the account in question is considered settled and there is no need for our Office to consider whether or not to grant relief.

In this case, your agency had knowledge that the loss had occurred once it received the debit voucher from Treasury, dated October 24, 1983. Although your submission does not indicate when the debit voucher was actually received, the loss was recorded in the officer's account on May 11, 1984. It is clear from this that the 3-year period within which our Office is required to settle this account has expired. Since there is no evidence or fraud or criminality on the part of the accountable officer involved, the account must be regarded as settled. Accordingly, since the accountable officer can no longer be financially liable for the overpayment, there is no need for our Office to consider whether or not to grant relief.

To avoid this kind of problem in the future, we note that the GAO Policy and Procedures Manual for the Guidance of Federal Agencies requires agencies to report irregularities to GAO within 2 years after the date the accounts are made available to GAO for audit (that is, the date of the agency has substantially complete accounts). 7 GAO Policy and Procedures Manual Sec. 28.14. This timeframe provides agencies time to try to resolve those irregularities not involving fraud prior to reporting them to GAO. However, if that is not possible, by reporting financial irregularities within 2 years, our Office has time both to avoid the expiration of the 3-year limitation period and an adequate opportunity to determine whether relief should be granted or denied.